1950. **K** **File No.** O. Essen Commodities . 1950

Legal Dept.

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Subject:— Opinions under the Essential Commodities and Cattle Control Act 1946

File No. O. Essen Commodities / 50

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C O N T E N T S.

Legal Department File No. O. Essen. Commodities/1950
1950

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Bombay Essential Commodities and Cattle(Control) Act, 1946.

Secs. 10(1)& 11 A.R.D.D.Order No. 298-D dt. 23/8/1948.

Contraventions of the A.R.D.D. Order No. 298-D, dated 23-8-48 are offecnes under the Bombay Essential Commodities and Cattle (Control) Act, 1946, which are cognizable (see R.L.A.'s opinion No. G/720, dated 24-12-48, copy appended).

Id./P.M.L. 22/5

Remembrancer of Legal Affairs.

U.R. to A.& F.D.No. 6966 dated 23rd May 1950

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LEGAL DEPARTMENT.

Submitted with reference to H.D. office note at p. 15 ante.

2 The L.D. is requested to consider the practicability of drafting a legislation on the the lines of suggestions made by Shri Tori at pp. 3-13 ante. The various suggestions made by Shri B.S.Tori in order to prevent black-marketing are summarised below:

Money earned in black-market would not be shown in their account-books by the black marketeers. Instead they will purchase gold with that money. Under the false pretext that they are selling gold and golden ornaments bequeathed to them by their forefathers the black marketeers will sell the stock of gold with them and then credit such amount in their account books. To prevent this a statement about the ancentral hoards of gold should be called for from the business community. Similarly explanation about the amount credited in their account-books by selling gold should be called for every year from such persons".

3 L.D. may agree with the H.D. view that it will not be possible to enact provisions on the lines suggested by Shri Tori.

Id./... 25/4
J.S.(Id.....)

From the reports appearing in the newspapers(cuttings attached herewith) it appears that in the last session of the Parliament Shri K.T.Shah had moved a Bill to punish Tax-evaders and blackmarke-ters. The motion was, however, withdrawn after the Finance Minister's assurance that the Governm

...ed to bring a Bill to deal with such offences.

The Govt. of India does not seem to have moved [redacted] so far such a Bill. The matter, however, appears to be under the consideration of the Government of India.

The methods for tracing the instances of blackmarketing suggested by Mr. Tori are such as would require a huge staff for inspecting the accounts of dealers. Even if such a staff is maintained, it is doubtful whether any useful purpose will be served by that. The method does not appear to be practicable.

Id./..... 11/5

A.L.R. It is for the H.D. to consider in the first instance whether from the administrative point of view it will be possible to carry out the suggestions made by Shri Tori and then reduce them to propositions. After that is done the Deptt. should consider whether legislation is expedient and then consult L.D. as to the necessity or expediency from the legal point of view of the proposed legislation. (See Instruction 22 of the Instructions under the Rules of Business).

Id./..... 13/5

Addl.Secy. Has not some State passed an act or moved a Bill on this matter.

Id./.... 15/5

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The States of Bengal and U.P. have enacted a legislation in the matter. These enactments are

(1) The West Bengal Black Marketing Act, 1948, and

(2) The United Provinces Prevention of Black Marketing (Temporary Powers) Act, 1947.

The U.P Act appears to be a temporary measures and it is not known whether the Act is still in force. The Bengal Act appears to be a permanent measure.

The U.P Act provides for the detention of a black-marketeer and for placing his business under the management of an authorised controller. The Bengal Act provides for deterrent punishment to a black marketeer. machinery for expeditious trial, externment, bond for good behaviour, special provisions regarding bail and burden of proof. Both the Acts give a definition of "Black Marketing". None of the Acts provides for any remedy on the lines suggested by Mr. Tori. As the said enactments are in force in the respective States since 1948, the Governments of each of the States would be in a position to say whether the operation of the said enactments has any satutory effect in respect of putting an effective check to black marketing. In the State of Bombay, we have the Essential Supplies (Temporary Powers) Act, 1946 and the Essential Commodities and Cattle(Control) Act, 1946, and a contravention of any of the provisions of or any order issued under the said Acts is punishable under the said Acts. Though there is no specific mention of "Black Marketing" in the said Acts, the ultimate aim contemplated under the said

Acts is to put a check to black marketing. The Hoarding and Profiteering Ordinance which was promulgated during the war has been allowed to lapse and its place has been taken by the Acts of 1946. However in view of it the provisions of Fundamental Rights in the new Constitution it is difficult to insert penalties of detention, externment and confiscation or forfeiture of property in legislative enactments.

Id./..... 1/6

Additional Secretary to Government,

Legal Department.

U.R. to H.D. No. 7467 dated 2-6-1950

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Bombay Essential Commodities and Cattle (Control) Act, 1946.

Section 13.

R.L.A.'s opinion No. G/720 dated 24-12-48 was to the effect that the offences were cognizable Section 13 of the Bombay Essential Commodities and Cattle(Control) Act, 1946, deals with cognizance by Courts and not by Police Officers. For purposes of section 13, Police officers and Veterinary Surgeons are public servants.

Id./P.M.L. 22/11

Remembrancer of Legal Affairs.

U.R. to A.& F.D.No. 16467, dated the 23rd November 1950.

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